

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

KEITH ERIC THOMPSON,

Plaintiff,

Case No. 05-cv-40293

v.

HONORABLE STEPHEN J. MURPHY, III

MICHIGAN DEPARTMENT OF  
CORRECTIONS, et al.,

Defendants.

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**ORDER ADOPTING REPORT AND  
RECOMMENDATION (docket no. 73), GRANTING  
DEFENDANTS' MOTION FOR SUMMARY JUDGMENT  
(docket no. 64), ORDERING PLAINTIFF TO PROVIDE VALID  
ADDRESSES FOR ALL REMAINING DEFENDANTS, AND ORDERING  
THE CLERK TO TERMINATE VARIOUS DEFENDANTS FROM THE DOCKET**

In this civil rights action, pro se Plaintiff alleges that he was mistreated by various prison guards. Defendants Scott Nicewander and Vicki Jensen, the only defendants to have been served in this case, have moved for summary judgment on the claims against them. The matter was referred to a magistrate judge for all pretrial proceedings, and now returns to the court on the report and recommendation of Magistrate Judge Mark Randon. Judge Randon recommends Defendants' motion be granted. No objections to the report have been filed.

A district court's standard of review for a report and recommendation depends upon whether a party files objections. A court need not undertake any review at all with respect to portions of a report that no party objects to. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Further, a failure to file objections constitutes a waiver of any further right of appeal from the district judge's adoption of the report and recommendation. *See Howard v. Sec'y of*

*Health and Human Servs.*, 932 F.2d 505, 509 (6th Cir. 1991); *United States v. Walters*, 638 F.2d 947, 950 (6th Cir. 1981).

The last page of the Judge Randon's report notified the parties that any objections must be filed within 14 days of service of a copy of the report, as provided for in 28 U.S.C. § 636(b)(1) and E.D. Mich. LR 72.1(d)(2). See *Walters*, 638 F.2d at 950 (“[W]e hold that a party shall be informed by the magistrate that objections must be filed within ten days or further appeal is waived.”). Despite this reminder, Plaintiff failed to file any objections, and the time for doing so has passed. As a result, the Court need not conduct any review at all. The report is adopted without review as the Court's opinion. Defendants' motion will be granted, and the claims against them dismissed with prejudice. Additionally, by failing to file objections, Plaintiff has waived his right to later appeal this order. See *Walters*, 638 F.2d at 950.

The rest of the defendants have yet to be served, despite attempts by the U.S. Marshal to serve them. Waiver of service requests were returned to the Marshal because some of the remaining defendants no longer work at the address provided by Plaintiff, and because Plaintiff did not fully identify some of the defendants. See docket no. 55. It is Plaintiff's responsibility to provide this information. See *Lee v. Armontrout*, 991 F.2d 487, 489 (8th Cir. 1993).

Accordingly, Plaintiff must provide to the Court, within 14 days of this order, full names and current addresses for following remaining Defendants: Tarun K. Sharma, Baily (nurse), Easterle (nurse), T. Shafer (practitioner), Smith (prison guard), Kartes (prison guard), Baker (prison guard), and Slaughter. Once the necessary information is provided, the Court will order the U.S. Marshal to attempt service on the remaining defendants. Should Plaintiff fail to provide the full names and addresses, his claims against all remaining Defendants will

be dismissed without prejudice pursuant to Rule 4(m) of the Federal Rules of Civil Procedure.

Finally, the Court has dismissed in a prior order all claims against Defendants not identified in the preceding paragraph. See Order of Nov. 18, 2009 (docket no. 50). So that docket accurately reflects that order, the Clerk of the Court will be ordered to terminate from the docket all defendants named on the docket that are not identified in the preceding paragraph.

### **ORDER**

**WHEREFORE**, it is hereby **ORDERED** that the report and recommendation (docket no. 73) is **ACCEPTED** and **ADOPTED** as the opinion of the Court.

**IT IS FURTHER ORDERED** that Defendants' motion for summary judgment (docket no. 64) is **GRANTED**.

**IT IS FURTHER ORDERED** that the claims against Defendants Nicewander and Jensen are **DISMISSED with prejudice**.

**IT IS FURTHER ORDERED** that Plaintiff shall, **within 14 days**, **FILE** with the Court full names and valid addresses for the remaining Defendants listed above. Failure to do so will result in dismissal without prejudice of all claims against the defendants for lack of service.

**IT IS FURTHER ORDERED THAT** the Clerk of the Court shall **TERMINATE** from the docket all Defendants **except** Tarun K. Sharma, Baily (nurse), Easterle (nurse), T. Shafer (practitioner), Smith (prison guard), Kartes (prison guard), Baker (prison guard), and Slaughter.

**SO ORDERED.**

s/Stephen J. Murphy, III  
STEPHEN J. MURPHY, III  
United States District Judge

Dated: December 9, 2010

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on December 9, 2010, by electronic and/or ordinary mail.

Alissa Greer  
Case Manager